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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91614; File No. SR-Phlx-2021-10]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Order Approving a Proposed Rule Change to Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Options Program on the Invesco QQQ TrustSM Series ETF Trust

April 20, 2021

I. Introduction

On February 22, 2021, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4 thereunder,² a proposed rule change to amend Phlx Options 4, Section 5 at Commentary .11 to allow Monday and Wednesday expirations for options listed pursuant to the Exchange’s short term option series program (“Short Term Option Series Program”) on the Invesco QQQ TrustSM Series (“QQQ”) ETF Trust. The proposed rule change was published for comment in the Federal Register on March 8, 2021.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 91238 (March 2, 2021), 86 FR 13404 (“Notice”).

II. Description of the Proposal

Under the terms of the current Short Term Option Series Program, after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day series of options on that class that expire on each of the next five consecutive Fridays that are business days,⁴ provided that such Friday does not occur in the same week in which monthly options series on the same class expire or is not a Friday on which Quarterly Options Series on the same class expire.⁵ If the Exchange is not open for business on the Friday of the following business week, the series will expire on the first business day immediately prior to that Friday.⁶ In addition, the Exchange may open for trading on any Friday or Monday that is a business day series of options on the SPDR S&P 500 ETF Trust (“SPY”) to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series expire, provided that expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration.⁷ The Exchange also may open for trading on any Tuesday or Wednesday that is a business day series of options on SPY to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series expire.⁸

The Exchange proposes to expand the Short Term Option Series Program to permit Phlx to open for trading, on any Monday or Friday that is a business day, series of

⁴ See Commentary .11 to Phlx Options 4, Section 5.

⁵ See Commentary .11(b) to Phlx Options 4, Section 5.

⁶ See Commentary .11 to Phlx Options 4, Section 5.

⁷ See id.

⁸ See id.

options on QQQ that expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series on the same class expire (“Monday QQQ Expirations”). In the case of a series that is listed on a Friday and expires on a Monday, it must be listed at least one business week and one business day prior to that Monday expiration. If the Monday QQQ Expiration falls on a Monday that is not a business day, the series shall expire on the first business day immediately following that Monday.

Similarly, the Exchange also proposes to expand the Short Term Option Series Program to permit Phlx to open for trading, on any Tuesday or Wednesday that is a business day, series of options on QQQ to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series on the same class expire (“Wednesday QQQ Expirations”). If the Wednesday QQQ Expiration falls on a Wednesday that is not a business day, the series shall expire on the first business day immediately prior to that Wednesday.

In addition, the Exchange proposes to amend Commentary .11 to Options 4, Section 5, to state that it may list up to five consecutive Monday QQQ Expirations at one time and up to five consecutive Wednesday QQQ Expirations at one time, and that there may be no more than a total of five Monday QQQ Expirations and no more than a total of five Wednesday QQQ Expirations. The Exchange also proposes to amend Commentary .11(b) to Options 4, Section 5 to permit Monday QQQ Expirations and Wednesday QQQ Expirations to expire in the same week in which monthly options series on the same class

expire. Otherwise, Monday QQQ Expirations and Wednesday QQQ Expirations will be subject to the same rules as standard Short Term Option Series.⁹

III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Commission finds that the proposal is consistent with the requirements of Sections 6(b)(5) of the Act,¹¹ which requires, among other things, that a national securities exchange have rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. The Commission believes that the proposed rule change may provide the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in QQQ options, thus allowing them to better manage their risk exposure. In

⁹ For example, the Monday QQQ Expirations and Wednesday QQQ Expirations would be subject to the same series limitations and strike interval rules as standard Short Term Option Series. See Notice, supra note 3, at 13404–5.

¹⁰ 15 U.S.C. 78f. In approving this proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(5).

addition, the Commission notes that the Exchange has similar rules permitting the listing and trading of Monday and Wednesday expirations on SPY.¹²

In approving the proposal, the Commission notes that the Exchange has represented that it has an adequate surveillance program in place to detect manipulative trading in Monday QQQ Expirations and Wednesday QQQ Expirations.¹³ The Exchange further states that it has the necessary systems capacity to support the new options series.¹⁴

IV. Conclusion

IT IS THEREFORE ORDERED THAT pursuant to Section 19(b)(2) of the Act¹⁵ that the proposed rule change (SR-Phlx-2021-10) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

J. Matthew DeLesDernier,

Assistant Secretary.

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¹² See Commentary .11 to Phlx Options 4, Section 5.

¹³ See Notice, supra note 3, at 13406.

¹⁴ Id.

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 17 CFR 200.300-3(a)(12).